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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 100804324-1265-02]

RIN 0648-BC36

Magnuson-Stevens Act Provisions; Fisheries off West Coast
States; Biennial Specifications and Management Measures;
Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial
groundfish management measures.

SUMMARY: This final rule announces inseason changes to
management measures in the Pacific Coast groundfish
fisheries. This action, which is authorized by the Pacific
Coast Groundfish Fishery Management Plan (FMP), is intended
to allow fisheries to access more abundant groundfish
stocks while protecting overfished and depleted stocks.

DATES: Effective 0001 hours (local time) September 1,
2012.

FOR FURTHER INFORMATION CONTACT: Colby Brady (Northwest Region, NMFS), phone: 206-526-6117, fax: 206-526-6736, colby.brady@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Website at <http://www.gpo.gov/fdsys/search/home.action>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

Background

The Pacific Coast Groundfish FMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS. On November 3, 2010, NMFS published a proposed rule to implement the 2011-2012 harvest specifications and management measures for most species of the Pacific Coast groundfish fishery (75 FR 67810). The final rule to

implement the 2011-12 harvest specifications and management measures for most species of the Pacific Coast Groundfish Fishery was published on May 11, 2011 (76 FR 27508). This final rule was subsequently amended by several inseason actions (76 FR 39313, 76 FR 67092, 76 FR 79122, 77 FR 12503, 77 FR 22679, 77 FR 24634). On September 27, 2011, NMFS published a proposed rule to implement final 2012 specifications for overfished species and assessed flatfish species pursuant to Secretarial Amendment 1 to the Groundfish FMP (76 FR 59634). That final rule was effective January 1, 2012. These specifications and management measures are codified in the CFR (50 CFR part 660, subparts C through G).

Changes to current groundfish management measures implemented by this action were recommended by the Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, at its June 20 - June 25, 2012 meeting. The Council recommended adjusting the biennial groundfish management measures for the remainder of the biennial period to respond to updated fishery information and additional inseason management needs. The adjustment to fishery management measures are not expected to result in greater impacts to overfished

species than originally projected through the end of 2012. Estimated mortality of overfished and target species are the result of management measures designed to achieve, to the extent possible, but not exceed, annual catch limits (ACLs) of target species while fostering the rebuilding of overfished stocks by remaining within their rebuilding ACLs.

Limited Entry (LE) Fixed Gear Fishery Management Measures
Sablefish Daily Trip Limit (DTL) Trip Limits North of 36°
N. Lat.

To ensure that harvest opportunities for this stock do not exceed the LE fixed gear sablefish DTL allocation north of 36° N. lat., the Council considered decreases to trip limits for sablefish in this fishery and the potential impacts on overall catch levels. Model-based landings projections of the LE fixed gear sablefish DTL fishery north of 36° N. lat. were made for the remainder of 2012 by the Council's Groundfish Management Team (GMT). These projections were made based on the most recent information available under the current 2012 trip limit scenario, and predicted a harvest overage of 41 percent, or 108 metric tons in excess of this fishery's harvest guideline under the status quo trip limits. Projections for the other three

fixed gear sablefish fisheries were tracking within their targets for 2012. An overage by the northern LE fixed gear sablefish DTL fishery could result in an overage of the northern sablefish ACL.

Therefore, the Council recommended and NMFS is implementing trip limit changes for the LE fixed gear sablefish DTL fishery north of 36° N. lat. that decrease LE fixed gear sablefish DTL fishery limits from "1,000 lb (454 kg) per week, not to exceed 4,000 lb (1,814 kg) per 2 months" to "800 lb (363 kg) per week, not to exceed 1,600 lb (726 kg) per 2 months" beginning in period 5, September 1, 2012 through the end of the year. This decrease in trip limits is not anticipated to increase projected impacts to overfished species and is anticipated to help maintain mortality levels within the northern sablefish ACL.

Shelf Rockfish Trip Limits South of 34° 27' N. Lat.

The Council received an industry request to increase the LE fixed gear shelf rockfish trip limits south of 34° 27' N. lat. The shelf rockfish complex south of 40° 10' N. lat. has not been fully harvested in recent years, averaging between 29.7 percent and 51.1 percent of its ACL in years 2006-2010. West Coast Groundfish Observer Program data indicate very few encounters with overfished species

and California state fish ticket data indicate that very few vessels actually attained full trip limits between 2008 and 2010.

Based on these data, the Groundfish Management Team estimated that landings would increase by approximately 0.2 metric tons, to a total of 2.2 metric tons. This modest increase in trip limits for shelf rockfish is not expected to result in an overharvest of any species' contribution to the complex as a result of this request.

Therefore, the Council recommended and NMFS is implementing increased trip limits for shelf rockfish in the LE fixed gear fishery south of 34° 27' N. lat., from "3,000 pounds (1361 kg) per 2 months" to "4,000 pounds (1814 kg) per 2 months" beginning in period 5, September 1, 2012 through the end of the year.

Bocaccio Trip Limits South of 34° 27' N. Lat.

There are increased encounters with bocaccio south of 34° 27' N. lat. resulting from a very strong year class entering the fishery. In order to reduce unnecessary discarding as a result of increased encounters with the new year-class entrants, industry submitted a request to the Council to raise the bimonthly limit of bocaccio south of 34° 27' N. lat. The estimated take of bocaccio would

increase to 0.7 metric tons from the annual average of 0.4 metric tons, which is well within the non-trawl bocaccio allocation south of 40° 10' N. lat.

Therefore, the Council recommended and NMFS is implementing trip limit changes for bocaccio in the LE fixed gear fishery south of 34° 27' N. lat. from "300 pounds (136 kg) per two months" to "500 pounds (227 kg) per two months" beginning in period 5, September 1, 2012 through the end of the year.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures based on the best available information and is consistent with the Pacific Coast Groundfish FMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60 (c) and is exempt from review under Executive Order 12866.

These inseason changes in sablefish, shelf rockfish and bocaccio limits are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see ADDRESSES) during business hours.

For the following reasons, NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to partially waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective September 1, 2012.

At the June Council meeting, the Council recommended that these changes, which are based on the most recent information available, be implemented by September 1, 2012. There was not sufficient time after that meeting to draft this document and undergo proposed and final rulemaking before these actions need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to approach, without exceeding, the ACLs for federally managed species in accordance with the FMP and applicable laws. The adjustments to management measures in this document affect commercial fisheries from southern California to Washington State. These adjustments

to management measures must be implemented in a timely manner, by September 1, 2012, to: allow LE fixed gear fishermen an opportunity to harvest their limits in 2012 for sablefish without exceeding the ACL North of 36° N. lat., to allow harvest of shelf rockfish without exceeding the ACL south of 34° 27' N. lat., and to allow incidental catch of bocaccio without exceeding the ACL south of 34° 27' N. lat. in response to significant recent recruitment events. These changes in the LE fixed gear fishery continue to allow fishermen opportunities to harvest available healthy stocks while staying within the ACLs for these species. If this rule is not implemented immediately, the public could have incorrect information regarding allowed LE fixed gear trip limits which would cause confusion and be inconsistent with the intent of the Council. It would be contrary to the public interest to delay implementation of these changes until after public notice and comment, because making this regulatory change by September 1, 2012, allows harvest as intended by the Council in fisheries that are important to coastal communities in a manner that prevents ACLs of overfished and target species from being exceeded.

No aspect of this action is controversial and no change in operating practices in the fishery is required from those intended in this inseason adjustment.

Delaying these changes would also keep management measures in place that are not based on the best available information. Such delay would impair achievement of the Pacific Coast Groundfish FMP objectives of providing for year-round harvest opportunities, extending fishing opportunities as long as practicable during the fishing year, or staying within ACLs or allocations for sablefish, shelf rockfish, and bocaccio in the LE fixed gear fishery.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to partially waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: August 3, 2012.

Lindsay Fullenkamp, Acting Deputy Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq., 16 U.S.C. 773 et seq., and 16 U.S.C. 7001 et seq.

2. Table 2 (North) to part 660, Subpart E is revised to read as follows:

Table 2 (North) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{6/}:							
1	North of 46°16' N. lat.	shoreline - 100 fm line ^{6/}					
2	46°16' N. lat. - 43°00' N. lat.	30 fm line ^{6/} - 100 fm line ^{6/}					
3	43°00' N. lat. - 42°00' N. lat.	20 fm line ^{6/} - 100 fm line ^{6/}					
4	42°00' N. lat. - 40°10' N. lat.	20 fm depth contour - 100 fm line ^{6/}					
See § 660.60 and § 660.230 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
5	Minor slope rockfish ^{2/} & Darkblotched rockfish	4,000 lb/ 2 months					
6	Pacific ocean perch	1,800 lb/ 2 months					
7	Sablefish	1,300 lb per week, not to exceed 5,000 lb/ 2 months	1,000 lb per week, not to exceed 4,000 lb/2 months		800 lb per week, not to exceed 1,600 lb/2 months		
8	Longspine thornyhead	10,000 lb/ 2 months					
9	Shortspine thornyhead	2,000 lb/ 2 months					
10	Dover sole	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
11	Arrowtooth flounder						
12	Petrale sole						
13	English sole						
14	Starry flounder						
15	Other flatfish ^{1/}						
16	Whiting	10,000 lb/ trip					
17	Minor shelf rockfish ^{2/} , Shortbelly, Widow, & Yellowtail rockfish	200 lb/ month					
18	Canary rockfish	CLOSED					
19	Yelloweye rockfish	CLOSED					
20	Minor nearshore rockfish & Black rockfish						
21	North of 42° N. lat.	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish ^{3/}					
22	42° - 40°10' N. lat.	8,500 lb/ 2 months, of which no more than 1,200 lb may be species other than black rockfish ^{3/}					
23	Lingcod ^{4/}	CLOSED	800 lb/ 2 months			400 lb/ month	CLOSED
24	Pacific cod	1,000 lb/ 2 months					
25	Spiny dogfish	200,000 lb/ 2 months	150,000 lb/ 2 months		100,000 lb/ 2 months		
26	Other fish ^{5/}	Unlimited					

TABLE 2 (North)

TABLE 2 (North)

1/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish and splitnose rockfish is included in the trip limits for minor slope rockfish.

3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.11 and include sharks (except spiny dogfish), skates (except longnose skates), ratfish, morids, grenadiers, and kelp greenling. Cabezon and longnose skate are included in the trip limits for "other fish."

6/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

3. Table 2 (South) to part 660, Subpart E is revised to read as follows:

Table 2 (South) to Part 660, Subpart E -- Non-Trawl Rockfish Conservation Areas and Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table

09012012

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{5/}:							
1	40°10' - 34°27' N. lat.	30 fm line ^{5/} - 150 fm line ^{5/}					
2	South of 34°27' N. lat.	60 fm line ^{5/} - 150 fm line ^{5/} (also applies around islands)					
See § 660.60 and § 660.230 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).							
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
3	Minor slope rockfish ^{2/} & Darkblotched rockfish	40,000 lb/ 2 months					
4	Splitnose	40,000 lb/ 2 months					
5	Sablefish						
6	40°10' - 36° N. lat.	1,300 lb/ week, not to exceed 5,000 lb/ 2 months	1,000 lb per week, not to exceed 4,000 lb/2 months		800 lb per week, not to exceed 1,600 lb/2 months		
7	South of 36° N. lat.	1,800 lb/ week					
8	Longspine thornyhead	10,000 lb / 2 months					
9	Shortspine thornyhead						
10	40°10' - 34°27' N. lat.	2,000 lb/ 2 months					
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12	Dover sole	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
13	Arrowtooth flounder						
14	Petrale sole						
15	English sole						
16	Starry flounder						
17	Other flatfish ^{1/}						
18	Whiting	10,000 lb/ trip					
19 Minor shelf rockfish ^{2/} , Shortbelly, Widow rockfish, and Bocaccio (including Chilipepper between 40°10' - 34°27' N. lat.)							
20	40°10' - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, bocaccio & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb/ 2 months may be any species other than chilipepper.					
21	South of 34°27' N. lat.	3,000 lb/ 2 months	CLOSED	3,000 lb/ 2 months		4,000 lb/ 2 months	
22 Chilipepper rockfish							
23	40°10' - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly, widow and bocaccio limits -- See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA					
25 Canary rockfish		CLOSED					
26 Yelloweye rockfish		CLOSED					
27 Cowcod		CLOSED					
28 Bronzespotted rockfish		CLOSED					
29 Bocaccio							
30	40°10' - 34°27' N. lat.	Bocaccio included under Minor shelf rockfish, shortbelly, widow & chilipepper limits -- See above					
31	South of 34°27' N. lat.	300 lb/ 2 months	CLOSED	300 lb/ 2 months		500 lb/ 2 months	

TABLE 2 (South)

TABLE 2 (South)

Table 2 (South). Continued

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC		
32 Minor nearshore rockfish & Black rockfish								
33	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	1,000 lb/ 2 months	
34	Deeper nearshore							
35	40°10' - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months	900 lb/ 2 months			
36	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months				
37	California scorpionfish	1,200 lb/ 2 months ^{7/}	CLOSED	1,200 lb/ 2 months	1,200 lb/ 2 months			
38	Lingcod ^{3/}	CLOSED		800 lb/ 2 months			400 lb/ month	CLOSE D
39	Pacific cod	1,000 lb/ 2 months						
40	Spiny dogfish	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months			
41	Other fish ^{4/}	Unlimited						

TABLE 2 (South)

1/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ The commercial minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

4/ "Other fish" are defined at § 660.11 and include sharks (except spiny dogfish), skates (except longnose skates), ratfish, morids, grenadiers, and kelp greenling. Cabezon and longnose skate are included in the trip limits for "other fish."

5/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

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